

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and

THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 21166 of 2004

Between:

M/s. Vikas Residential College, Ring Road,

Guntur, Guntur District.rep.by its

Managing Partner K.Vivekananda,

S/o.Chenchurama Naidu, aged 59 years. **PETITIONER**

AND

1. The Assistant Commissioner of Commercial Taxes (INT) (LTU),

Guntur, Guntur District.

2. The Appellate Deputy Commissioner of Commercial Taxes,

Guntur, Guntur District.**RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction particularly in the nature of writ of Mandamus declaring that the exemption from sales tax on transactions of supply/sale of food and drinks by the petitioner's educational institute to the students residing in the hostels in G.O.Ms.No.1036, dt. 20-10-1989 issued under section- 9(1) of the APGST Act, 1957 is general in nature capable of covering the purchase transactions of raw food materials like paddy and Milk in terms of the Judicial decisions in 24 APSTJ 1 (A.P), 90 STC 537 (Karnataka) as affirmed by the

Honourable Supreme Court in C.A.No's 1784-89 of 1994 dated 28-07-1998 and also by holding that the expression "food" as used in G.O.Ms.No.1036 Rev.(CT-II) Dept., dt. 20-10-1989 being comprehensive, including any or all within it raw food materials also such as paddy and as such sale/supply of food being exempt from tax is capable of covering purchase of raw food materials also in terms of the Judgments of Allahabad High Court in 32 STC 14, also of the Honourable Supreme Court reported in AIR 1983 SC 1015 and AIR 1981 SC 1485 or in the alternate to hold that the petitioner educational institutes activity of imparting education to the students in the residential college and coaching centers beyond the purview of the expressions business and dealer as envisaged in sections-2(bbb) and section-2(d) of the APGST Act and to set aside the orders of the respondents dated 11-09-2004 and 25-10-2004 relating to assessment years 2000-2001 to 2004-2005(upto July, 2004) and grant such other relief or reliefs as are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.M.V.J.K.KUMAR

Counsel for the Respondents: GP FOR COMMERCIAL TAXES

The Court made the following :

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ORDER:

Sri M.V.J.K.Kumar, learned Counsel for the petitioner seeks leave of this Court to withdraw this writ petition, with leave to avail such remedies as may be available to him in law.

Leave is accordingly granted. The Writ Petition shall stand dismissed. There shall be no order as to costs.

B. SUDERSHAN REDDY, J

22-11-2004

T.CH.SURYA RAO, J

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LUR/MSV

Copy to:

1. The Assistant Commissioner of Commercial Taxes (INT) (LTU),

Guntur, Guntur District.

2. The Appellate Deputy Commissioner of Commercial Taxes,

Guntur, Guntur District.

3. Two CCs to the G.P. for Commercial Taxes

High Court Buildings, High Court of A.P.,

Hyderabad (O.U.T.)

4. Two CD copies.